

HOUSE BILL 598
By Briley

AN ACT relative to the creation of a special committee to study equal access to justice and other implications of death penalty trials.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. There is created a special committee to study access to justice and other implications of death penalty trials in the state of Tennessee. The committee shall be known as the Death Penalty Fairness Study Committee, herein referred to as "the committee".

SECTION 2. The committee is charged to study capital punishment in the state of Tennessee and to make recommendations designed to guarantee that, in its application and administration, capital punishment in Tennessee is free from bias and error. To that end, the committee shall, among other things, review:

(1) The June 2001 Protocols of the American Bar Association Section of Individual Rights and Responsibilities;

(2) Mandatory Justice: Eighteen Reforms to the Death Penalty, a report of The Constitution Project's bipartisan, blue-ribbon commission of capital punishment supporters and opponents; and

(3) Other non-partisan, academic, or government inquiries into the administration of capital punishment at state and national levels.

SECTION 3. The committee is charged to study, receive testimony, deliberate upon, and make recommendations for public policy designed to guarantee fairness and accuracy in the application and administration of capital punishment. The committee's recommendations shall address, but not be limited to, the following:

- (1) The presence of innocent persons on death row in Tennessee;
- (2) Racial disparities and any disproportionate racial impact upon any aspect of capital case proceedings;
- (3) Jurisdictional (geographical) disparities;
- (4) Socio economic disparities;
- (5) The risk of innocent people being executed;
- (6) Evolving standards of decency regarding state executions;
- (7) A comparison of the costs associated with death sentences and the costs associated with sentences of life in prison without the possibility of parole;
- (8) The adequacy of counsel in all stages of capital cases, and the sufficiency of guidelines for appointment and performance of such counsel;
- (9) The adequacy of investigative support afforded the accused in capital cases;
- (10) The process for judicial review of the merits of claims in state post-conviction and federal habeas corpus proceedings;
- (11) Whether mentally ill persons should be executed, and what criteria should be used in judging the level of illness involved; and
- (12) Prosecutorial misconduct or judicial error as a factor in the imposition of the death penalty.

SECTION 4. The committee shall consist of fifteen (15) members, as follows: three (3) members of the senate, appointed by the speaker of the senate; three (3) members of the

house of representatives, appointed by the speaker of the house; three (3) persons appointed by the governor; the state attorney general; a representative of the Tennessee bar association; a representative of the Tennessee association of criminal defense lawyers; a representative of the district attorneys general conference; a representative of the state district public defenders conference; and a representative of the office of post-conviction defender.

SECTION 5. The committee shall be convened by the legislative member with the most years of continuous legislative service, and, at its organizational meeting, shall elect from the legislative membership, a chair, vice chair, and such other officers, as it may deem necessary.

SECTION 6. Members of the committee shall serve without compensation, except that any member of the committee who is not a state employee shall be reimbursed for all travel expenses incurred as a result of his or her duties with the committee in accordance with the provision of the comprehensive travel regulations promulgated by the department of finance and administration and approved by the attorney general.

SECTION 7. The committee shall report its findings and recommendations to the governor and the general assembly by July 1, 2005, at which time the committee shall cease to exist.

SECTION 8. For the purpose of appointing the members of the committee, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, it shall take effect on July 1, 2003, the public welfare requiring it.